

### **REMARKS**

Claims 1-3 and 10-43 have been cancelled herein. Thus, Claims 4-9 remain pending in the instant application.

The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 4-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over WO91/12888 in combination with Collins (U.S. Pat. No. 3,281,648). This rejection is respectfully traversed.

Claim 4 recites a method of performing a plurality of chemical reactions simultaneously including, among other things, applying electromagnetic radiation to the first sample in the first applicator from **a first semiconductor based generator**, applying electromagnetic radiation to the second sample in the second applicator from **a second semiconductor based generator**, and individually controlling the electromagnetic radiation applied to the first and second applicator by individually and independently controlling the first and second semiconductor based generators in response to control signals from the first and second applicators.

In contrast, WO '888 discloses a chamber (1) housing several reaction vessels (5) and a magnetron tube (12). *Only one chamber (1) and only one magnetron tube (12) is disclosed.* The Examiner relies on Collins for disclosing a solid-state harmonic generator. Even assuming, *arguendo*, the suggested combination is proper, the mere duplication of the suggested combination fails to render obvious claim 4, because WO

'888 teaches away from multiple chambers for carrying out multiple chemical reactions. WO '888 specifically teaches bulk heating and cooling of multiple samples based on a single magnetron tube (12) and a single temperature sensor (13) in a single chamber (1), such that an advantage is achieved by heating multiple samples and one water bath with a single magnetron tube (12) (page 5, lines 5-15; see also page 2, lines 9-24 and Figure 1). Thus, based on the suggested advantages of one magnetron tube, one chamber apparatus in WO '888, it would not have been obvious to duplicate the disclosed apparatus. Accordingly, the suggested combination fails to teach, suggest or otherwise render obvious claim 4 or claims 5-9 which depend therefrom.

Further, the suggested combination does not teach or suggest individually and independently controlling two generators based on control signals from applicators. Instead, WO '888 merely teaches changing the output of a magnetron tube (12) based on a temperature sensor, which is generic to multiple reactions vessels (5), each holding a sample. By controlling the magnetron tube (12) in this manner, various samples generally receive variable heating/cooling from the magnetron tube (12) based on distance from the magnetron tube (12) and/or temperature sensor (13). Thus, the apparatus of WO '888 does not individually and independently control two generators based on control signals from two applicators. Accordingly, the suggested combination fails to teach, suggest or otherwise render obvious claim 4 or claims 5-9 which depend therefrom.

For at least this reason, the Examiner is respectfully requested to reconsider and withdraw the §103 rejection of Claims 4-8.

### **REJECTION UNDER 35 U.S.C. § 103**

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over WO91/12888 in combination with Collins (U.S. Pat. No. 3,281,648) as applied to claims 4-8 above, and further in view of WO95/27387. This rejection is respectfully traversed.

The Patent Office relies on the '387 reference for disclosing experiments with water and using a tapered waveguide. The '387 reference, however, fails to remedy the shortcomings of the suggested combination of the '888 reference and Collins explained above with reference to claim 4, from which claim 9 depends. As explained above, duplication of the apparatus disclosed in WO '888 is specifically taught away from in the disclosure of WO '888. The '387 reference fails to make sufficient disclosure to overcome the expressed teaching of WO '888. Thus, even assuming, arguendo, that it would be proper to combine the '888, Collins, and the '387 references in the manner suggested, the suggested combination would still lack features recited by claim 9.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the §103 rejection of claim 9.

### **NON-STATUTORY DOUBLE PATENTING REJECTION**

Claims 4-9 stand rejected on grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of U.S. Patent No. 6,403,939 (Fagrell). Applicant directs the Examiner's attention the terminal disclaimer, attached hereto, in compliance with 37 C.F.R. § 1.321(c) wherein it is stated that U.S. Patent No. 6,403,939 and the present application are commonly owned. In view of the terminal disclaimer, the Examiner's rejection is moot. Accordingly, the Examiner is respectfully

requested to reconsider and withdraw the nonstatutory obviousness-type double patenting rejection of Claims 4-9.

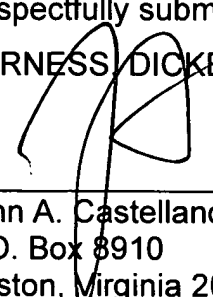
#### CONCLUSION

In view of the above remarks and cancellations, Applicant respectfully submits that each of the Office action rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the listed number.

Applicant hereby petitions under the provisions of 37 C.F.R. § 1.136(a) for an extension of time in which to respond to the outstanding Office Action and includes a fee as set forth in 37 C.F.R. § 1.17(a) with this response for such extension of time. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. **08-0750** for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,  
HARNESS, DICKEY, & PIERCE, P.L.C.

By

  
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